

# EXHIBIT 38

1 MICHAEL R. REED

2 UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

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5 In re Bair Hugger Forced

Air Warming Products

6 Liability Litigation,

7 MDL No. 14-2666 (JNE/FLN)

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11 VIDEOTAPED DEPOSITION OF

12 MICHAEL R. REED

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16 London, United Kingdom

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24 Taken December 4th, 2016 By Rose Kay

25 Job No. 115951

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forced air warming during a joint replacement reduces the infection rates. I think that's the -- that's the purpose of the trial.

Q. And the colorectal study you are referring to is the study back in 1996, that I think that counsel was indicating in the 1996 New England Journal of Medicine?

A. It was in the New England Journal of Medicine, yes.

Q. Were you aware that the patients -- the controls were actually cooled in those cases?

A. I was aware of that and I think I put that in the Wood review article.

Q. Okay. Are you aware that Dr. Sessler and Dr. Kurz currently believe that that data would not withstand the current research guidelines today?

MR. GORDON: Object to the form of the question. Assumes facts not in evidence.

A. So their own study, do you mean?

BY MR. ASSAAD:

Q. Yes.

A. I wasn't aware of that.

Q. By the way, going back to the McGovern study, which is exhibit number 8. There is an odds ratio. What is the odds ratio of 3-point -- what does that mean, 3.8 odds ratio?

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THE EXAMINER: Where do I find that?

MR. ASSAAD: Page number Reed 6.

A. It is the risk of something happening, essentially.

BY MR. ASSAAD:

Q. Would it be according -- could it be linked to the relative risk?

A. Yes.

THE EXAMINER: 15 ...

MR. ASSAAD: 42.

BY MR. ASSAAD:

Q. So based on your study in the McGovern, would it be fair to say that the relative risk of getting -- and based on the data, that the relative risk of getting a peri-prosthetic joint infection is 3.8 times greater using a Bair Hugger than using a conductive warming blanket, based on your study?

A. Based on that paper, yes.

THE EXAMINER: What was the figure you put to him?

MR. ASSAAD: 3.8.

BY MR. ASSAAD:

Q. Now, going forward to -- let me go back.

There came a time when you became part of the pilot study that -- it's called the "Reducing implant infection orthopaedics"; correct? The pilot study that

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you were referring to?

A. The RIIO study, is it?

Q. The RIIO study, yes. The RIIO stands for "Reducing implant infection orthopaedics"; and that is under tab number 18. And let's make that exhibit 13. (Exhibit Reed 13 marked for identification.)

Q. Have you seen this document before, this protocol?

A. Yes.

Q. And that is version 1.0, dated September 9, 2016; correct?

A. Yes. I have to say, I am not sure I have seen this version of the document, but I have seen -- I have seen the protocol.

Q. Do you know if there's more than one version?

A. Well, there will be several iterations. I know it is down as version 1.0, but it's probably -- you know, these things evolve over several weeks or months of discussion normally.

Q. Have you been part of authoring this pilot study?

A. I have certainly been involved in the -- in the conference calls about how it's designed.

Q. Were you aware that there was another 1.0 version dated July 5th, 2016?

A. Well, I am sure. I mean, generally there will be lots

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of versions of them.

Q. If you go to exhibit number 4, binder 4. Not in mine. In the big gigantic binders over there.

A. Okay.

THE EXAMINER: Page?

MR. ASSAAD: Page 1609.

A. 1609, is it?

BY MR. ASSAAD:

Q. Yes.

A. Okay.

(Off the record remarks.)

Q. Have you seen this document before?

A. Well, I mean, I have definitely been involved in the evolution of this study.

Q. Were you involved in this project, the pilot study, prior to July 5th, 2016?

A. In terms of discussion about it, yes.

Q. Okay.

And at this time, the funder does not have 3M Healthcare as part of the funding. It has, like, three Xs there under "Funding" on page 1609; correct?

A. Yes, correct. It is just the Healthcare Infection Society.

Q. Do you know when 3M Healthcare decided to become